HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Second Appeal No.365 of 2004

Appellants Defendants

1. Sethram, aged 17 years, S/o Jivan
2. Suresh, aged 15 years, S/o Jivan
3. Ku. Laxmi, aged 13 years, D/o Jivan
4. Rath Bai, aged 46 years, Wd/o Jivan

All by caste Chandra, resident of Village Kirit, Tahsil Nawagarh, District Janjgir Champa.

Sl.No.1 to 3 minors through natural guardian mother Rath Bai, Wd/o Jivan Chandra, r/o Kirit, Tahsil Nawagarh, District Janjgir Champa (CG)

versus

Respondents Plaintiffs

1. Jawahar, aged 51 years, S/o Kheduram Chandra
2. Badri, aged 44 years, S/o Kheduram Chandra
3. Laxman, aged 34 years, S/o Kheduram Chandra

All resident of Village Kirit, Tahsil Nawagarh, District Janjgir Champa

Memorandum of Second Appeal under Section 100 of the C.P.C.

Present : Shri Awadh Tripathi, counsel for the appellants/defendants.
Shri Ratnesh Kumar Agrawal and Shri Rakesh Jha, counsel for the respondents/plaintiffs.

ORAL ORDER
(Passed on 16th of July, 2007)

Heard on admission.

2. The appellants/defendants are aggrieved by the judgment and decree dated 28-02-2004 passed by the IVth Additional District Judge (F.T.C.), Janjgir in Civil Appeal No.11-A/2002 affirming the judgment and decree dated 12-05-2000 passed in Civil Suit No.223-A/1996 by IInd Civil Judge Class-II, Janjgir, whereby the suit for permanent injunction and recovery of possession of the suit land and house was decreed in favour of the plaintiffs.

3. The respondents/plaintiffs had instituted the suit under Article 65 of the Limitation Act for possession of the suit property on the basis of their title. The appellants/defendants had raised a plea of adverse possession. Both the Courts below recorded a concurrent finding of fact that the appellants/defendants have miserably failed to prove adverse possession on the suit property.

4. Shri Awadh Tripathi, learned counsel for the appellants/defendants has not been able to point out any illegality or perversity in the finding of fact recorded by both the Courts below. Considering that the finding of fact recorded by both the Courts below is based on appreciation of evidence, no substantial question of law arises for determination in this appeal.

5. The appeal is dismissed. In the facts and circumstances of the case, the parties shall bear their own costs.

6. Consequently, M.(C.)P.No.964/2004 and M.(C.)P.No.1021/2005 stand dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge